

DAKOTA ELECTRONICS

- SMR operator

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market. proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)
- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

MTA Licensee Rights and Obligations

- MTA licensees should be required to observe a 40/22 dBu co-channel separation, as should all licensees. (4-5)
- MTA licensees should not be able to construct within the 22 dBu contour of incumbent co-channel licensees and local licensees should be prohibited from locating their sites within the 22 dBu contour of other local licensees. (5)

Construction Requirements

- Supports strict enforcement of the one year construction deadline for local SMRs, and the requirement that licensees begin serving customers by the end of the construction period. Also supports strict construction for MTA licensees and license forfeiture for failure to comply. (5)

Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (4)
- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (4-5)

Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding. (2, 5)
- These channels would be able to be used by local licensees, existing wide-area systems, or combined to form new wide-area systems, but should be subject to existing rules, with greater co-channel interference protection. They should not be authorized for use throughout an MTA unless actually licensed and constructed at sites in the MTA. (2)
- Urges the Commission not to foreclose local SMRs from the Business and Industrial/Land Transportation channels for expanding their operations. (6)

Other Issues

- Urges the Commission to take this opportunity to strengthen its co-channel interference criteria to a strict 40-22 dBu standard and to restrict "short spacing." (3)
- The FCC should presumptively classify all MTA licensees as CMRS. There should be no presumption of CMRS status on the lower 80 or 150 General Category channels. (6)

DCL ASSOCIATES, INC.

- Manager of cellular and SMR properties

Allocation Issues

- Supports using the 174 BEA defined areas for SMR auctions. (7)
- The lower 80 channels should be licensed for local SMR use with flexible site placement based upon BTA defined areas. (8)

Construction Requirements

- Any retroactive reduction or elimination of extended implementation periods previously granted would shake the industry's confidence in the service. (2)
- Extended construction schedules with strict interim benchmarks and deadlines do not enable recipients to warehouse spectrum. (3)
- The successful purchase of a wide area SMR license by existing licensees with extended implementation authority will require those licensees to reformulate their business plans, thus necessitating an additional five year construction schedule. (5)
- Extended implementation schedules will maximize the participation of women, minorities and small businesses in SMR. (5)
- Local/BTA licensees should be provided three years to build out their systems. (8)

Incumbent Rights and Obligations

- Incumbent SMR licensees should be able to construct new base stations anywhere within the radius of their originally authorized stations on all 280 channels, provided that the 40 dBu signal strength contour of any existing station would not be extended by the new base stations. (6)
- Relocation of incumbents should be voluntary (9)

DECK COMMUNICATIONS, INC.

- SMR operator

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)
- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

MTA Licensee Rights and Obligations

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- MTA licensees should not be able to construct within the 22 dBu contour of incumbent co-channel licensees and local licensees should be prohibited from locating their sites within the 22 dBu contour of other local licensees. (4-5)

Construction Requirements

- Supports strict enforcement of the one year construction deadline for local SMRs, and the requirement that licensees begin serving customers by the end of the construction period. Also supports strict construction for MTA licensees and license forfeiture for failure to comply. (5)

Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (3-4)
- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (4)

Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding (2, 5)
- These channels would be able to be used by local licensees, existing wide-area systems, or combined to form new wide-area systems, but should be subject to existing rules, with greater co-channel interference protection. They should not be authorized for use throughout an MTA unless actually licensed and constructed at sites in the MTA. (2)
- Urges the Commission not to foreclose local SMRs from the Business and Industrial/Land Transportation channels for expanding their operations. (5-6)

Other Issues

- Urges the Commission to take this opportunity to strengthen its co-channel interference criteria to a strict 40-22 dBu standard and to restrict "short spacing." (3)
- The FCC should presumptively classify all MTA licensees as CMRS. There should be no presumption of CMRS status on the lower 80 or 150 General Category channels (6)

DIAL CALL COMMUNICATIONS

- Provider of SMR services

Allocation Issues

- The Commission should license a single ten MHz block of the upper 200 channels in each MTA. Opposes the Commission's proposal to allocate channels in four blocks of 50 channels each as this will not facilitate wide-area SMR licensing. (5)

Auction Issues

- Opposes using competitive bidding to further license the 800 MHz SMR band. The Commission's reallocation will merely change the form of the authorization. This is a modification of authority for which competitive bidding was never intended to be used. (12)
- The reallocation of the 800 MHz band is different from the reallocation of the 2 GHz band in which a new service will be provided. (12-13)
- The MTA license should be awarded to a qualified applicant after negotiations. Competitive bidding would follow the negotiation only if qualified applicants were unable to agree on assignment of the MTA license within two years. (13)

Construction Requirements

- Supports the imposition of stringent construction requirements to deter speculation. Supports requiring licensees to provide coverage to at least one-third of the MTA population within three years of grant and at least two-thirds of the population within five years. (7)
- The population requirements should be coupled with a requirement that a minimum number of frequencies be constructed over the covered population (7)
- Construction requirements for the MTA licensee should be without regard to the number of incumbent licensees or the MTA licensee's success in negotiating with incumbent licensees. (7-8)
- Failure to properly construct an MTA license should result in forfeiture of the license (8)

Incumbent Rights and Obligations

- Opposes any form of mandatory relocation, including the proposal that relocation be voluntary for a period of time, followed by mandatory negotiations and then mandatory retuning. Any form of mandatory retuning would be burdensome for incumbent licensees. Moreover, any forced relocation would have to wait until the expiration of the incumbent's license or the results of a show cause proceeding. Either procedure would take too long to accomplish. (6-7)
- Incumbent licensees should be able to maintain and expand existing systems by construction of a new base station within the 22 dBu interference contour of the originally authorized stations. (8)
- Existing licensees should be able to construct and implement their networks under previously granted extended implementation authorizations. (8)

Treatment of General Category Channels and Intercategory Sharing

- Opposes the reclassification of eligibility for General Category Channels. The Commission's concern that SMRs will employ the General Category Channels in lieu of available SMR channels is misplaced as the rules limit the use of General Category Channels in trunked SMR systems. (10-11)

DIAMOND "L" INDUSTRIES, INC.

- SMR operator

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Auction Issues

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MTA Licensee Rights and Obligations

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Other Issues

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EDEN COMMUNICATIONS, INC.

- SMR operator

Allocation Issues

- Eden believes that the FCC's proposal to auction 200 SMR channels on an MTA basis is impractical and unworkable and, if attempted, would injure the already established SMR industry. (Incorporates its Reply Comments opposing Nextel's original proposal in this proceeding.) (1-2)

THE ERICSSON CORPORATION

- Manufacturer of radio equipment

Allocation Issues

- Opposes the proposal to create a new regulatory framework for licensing 800 MHz SMR systems. To the extent wide-area service is deemed necessary and desirable, a regulatory structure is already in place. Moreover, it has not been established that MTA-based SMR services will be competitive with cellular and/or new PCS services. (2-3)
- The Commission's proposal is unfair to existing SMR licensees as there will be no opportunity for these licensees to expand their systems without the consent of the MTA licensee. (4)
- The Commission should not award lower SMR channels on a BTA basis. Many small businesses do not want to provide service in an area as large as a BTA and the cost of constructing an 800 MHz BTA system may be beyond the means of numerous licensees. (9)

Auction Issues

- The use of auctions to award MTA-based 800 MHz SMR licenses artificially skews the 800 MHz SMR market in favor of large companies. The Budget Act did not give the Commission the authority to use auctions to displace thousands of existing service providers when no suitable alternatives are available. (4-6)
- The Commission should not use auctions to award BTA licenses as this would place purely local licenses at a significant disadvantage relative to larger companies. (9)

Incumbent Rights and Requirements

- Supports proposal to permanently grandfather existing 800 MHz SMR licensees in the upper 200 channels. (6)
- Opposes mandatory relocation of upper channel 800 MHz SMR licensees into lower 80 channels. This proposal is inequitable and there is insufficient 800 MHz spectrum for relocation to take place. (6-7)

- The Commission should not involve itself in "voluntary relocation negotiations" as this intrusion is the same as requiring mandatory relocation. Moreover, if the Commission participates in the negotiations, the dynamics of the relocation process will be dramatically changed to the detriment of local licensees. (7)

Treatment of General Category Channels and Intercategory Sharing

- Opposes allowing MTA-based licensees to maintain eligibility for licensing on the 80 lower 800 MHz channels. There has been no demonstration that MTA-based 800 MHz SMR systems are necessary to provide competition, many 800 MHz SMR local licensees will be unable to expand their systems, and the proposal will exacerbate crowding problems for local licensees who want to relocate. (8-9)

E.T. COMMUNICATIONS CO.

- SMR operator

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Construction Requirements

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Other Issues

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FISHER COMMUNICATIONS, INC.

- SMR service provider

Allocation Issues

- Opposes MTA-based licensing. (2)

Auction Issues

- Auctions should not be used to assign "local" SMR licenses. (3)

Incumbent Rights and Obligations

- Opposes mandatory relocation which would hurt end-users not typically desired as customers by those interested in providing mobile telephony. (2)
- Incumbents should be allowed to modify existing operations by relocating within their existing coverage contour (3)

Other Issues

- The FCC should clarify and strengthen its co-channel separation requirements (3)
- The demand for SMR dispatch service is greater than that for mobile telephony. (4)

FRESNO MOBILE RADIO, INC.

- SMR operator in central California

Allocation Issues

- Objects to the FCC's proposal to eradicate traditional SMR operators in favor of paper giants like Nextel. (2)
- Nextel's system has been plagued with missed opportunities, broken promises, and lack of confidence from financial markets and, even with liberal largesse from the FCC, it has spent its time acquiring more systems and the ESMR systems it has constructed do not work as anticipated or promised. (3)
- An MTA licensing scheme appears unnecessary and burdensome on FCC resources in light of the fact that existing market forces already facilitate development of wide area systems. (4-5)
- The FCC has not explained its conclusion or provided a "reasoned analysis" that a service previously thought to require 280 channels can suddenly be accommodated in 80 channels. (5-7)
- Any attempt to implement MTA licensing without addressing the status of pending applications and the status of those applications on the FCC's SMR waiting list would be premature. (8)
- The FCC's proposal does not meet its goal of providing opportunities for development of wide-area 800 MHz SMR operators while protecting the viability of smaller systems, since the MTA licensing scheme would sound a death knell for existing systems. (9)
- The FCC's proposal does not meet its goal of ensuring all SMR licensees will make productive use of the spectrum and promptly implement service since the existing rules appear to be working. (9-10)
- The FCC's proposal does not meet its goal of encouraging more efficient use of SMR spectrum, since the FCC has not found that existing analog uses in conformance with the rules are inefficient and since the FCC has shown no reason why the market will not ensure the availability of higher capacity digital services if needed. (11)

- The FCC's proposal does not meet its goal of removing unnecessary regulatory obstacles to allow more effective competition with other CMRS offerings, since traditional SMRs are able to offer a basic service at a fair price, for which the public is grateful. (11-12)

Construction Requirements

- The FCC's prior grants of liberal 5 year construction waivers have not been met by diligent efforts to actually construct systems; instead they have merely allowed the warehousing of frequencies and stifled the growth of traditional operators. (1-2)

Incumbent Rights and Obligations

- The FCC has not stated whether existing licensees would be able to sell their systems to other than the MTA operator. It is imperative that traditional operators not be placed at the mercy of others in future negotiations regarding sales by creating a legislative "option to purchase." (7)
- Supports retaining the finder's preference program even under MTA licensing, since it provides the only opportunity for SMR operators to gain additional channels after MTA licensing and will provide incentives for MTA licensees to construct quickly. (7-8)

GENESEE BUSINESS RADIO SYSTEMS, INC.

- Sells and rents dispatch radio equipment and provides service in the 450 and 800 MHz frequency bands

Allocation Issues

- The top 175 cities do not have 800 MHz SMR spectrum available for new systems (2)
- The Commission should auction only 100 channels, 50 each to the top 2 bidders, and retain the other 100 channels for incumbent expansion and growth. (2)
- If auctions are permitted, they should be auctioned by BTA or "to the top 150 cities with a 40 mile radius service area." (2)

Auction Issues

- One single round of auctions using sealed bids would be unfair. Instead, the Commission should conduct at least two rounds with a 30 day interval. (4)
- Agrees with \$2,500 minimum for upfront payments, agrees with down payment and full payment for licensees, agrees with bid withdrawal, default and disqualification proposals (4)
- Agrees with three-year ownership unjust enrichment provisions. (5)
- The Commission needs to ensure that wide-area ESMR operators will not combine their auction acquisitions (5)
- Agrees with proposed treatment of businesses owned by women and minorities (5)
- With respect to small businesses, requests that bids be financed over the five years of the license. The three-year unjust enrichment provision should also apply to small businesses (5)
- Disagrees with the definition of small business that sales average under \$40 million over three years. Instead, Commission should use the Chamber of Commerce standard for retail/service companies of less than \$5.5 million annually. (5)

- Believes that 80% of all Two-way Radio Sales and Service companies are small businesses. Most companies will have less than \$500,000 assets and revenue under \$2 million. (5)

MTA Licensee Rights and Obligation

- Petitioner agrees to maintain 40 dB and 22dBuV/m protection to adjacent MTA or other licensee. (3)

Construction Requirements

- Generally supports the Commission's recommendations. Does not like the current practice of granting a four year waiver to wide area ESMR licensees. (3)
- The Commission should impose a performance bond of \$5,000 per channel for the term of the license to ensure that the auction winner will construct and operate the FCC grant. An additional penalty should be imposed for falsifying reports with a mandatory 6 month imprisonment. (4)

Incumbent Rights and Obligations

- Retuning of incumbent systems must be done at the preference of the incumbent and will cost at least \$6,000 per frequency in small system changes and up to \$10,000 per frequency for large system changes. (3)

Treatment of General Category Channels and Intercategory Sharing

- Since the 80 lower channels are not available in the Canadian area, the FCC must permit inter-category sharing for the incumbent's expansion when channels are available. (2)

Application Procedures

- Agrees with proposed application procedures. (3-4)

Other Issues

- Believes own operations remain private. not CMRS. (4)

GULF COAST RADIOFONE

- Radio dealer and SMR operator

Allocation Issues

- Generally opposes FCC proposals. (1)
- Given the alternatives, the 10 MHz of SMR spectrum should be licensed as 4 blocks of 2.5 MHz of spectrum (1)
- Would limit wide area licensees to one spectrum block per MTA. (1)
- The lower 80 channels and the 150 General Category channels should be licensed as SMR. These 230 channels should be reserved exclusively for small companies, women and minorities. (2)

Incumbent Rights and Obligations

- No mandatory retuning should be allowed. (2)

INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC. AND THE ALLIANCE OF PRIVATE 800/900 MHZ LICENSEES

- Frequency coordinator and independent membership market council of private, non-commercial radio licensees

Allocation Issues

- The Commission must recognize the requirements for spectrum to accommodate the needs of private, non-CMRS licensees. (3-4)
- With the conversion of interconnected SMR systems to the CMRS framework, it is no longer appropriate to use available private land mobile spectrum for these systems. (5)

Treatment of General Category Channels and Intercategory Sharing

- Unless the rules are changed, SMR systems would continue to have access to the Industrial/Land Transportation and Business category channels in the 800 MHz band through inter-category sharing procedures. This rule structure is inequitable and administratively inconsistent. (5-6)
- SMR licensees operating non-CMRS systems should be able to use the Industrial/Land Transportation and Business channels at 800 MHz on an inter-category sharing basis. (7)
- Any industrial, land transportation and business entity in need of spectrum should have the option of paying to re-tune any CMRS entities that may have gained access to the non-SMR channels through the inter-category sharing provisions. This will allow industrial, land transportation and business entities to reclaim some of the inter-category channels. (7)

**DRU JENKINSON, INC.
JANA GREEN, INC.
SHELLY CURTTRIGHT, INC.**

- SMR licensees and applicants

Allocation Issues

- Support the division of 10 MHz of SMR spectrum into four blocks of 2.5 MHz each for MTA-based licensing. (4)
- There should be no limit on the amount of spectrum that can ultimately be acquired by a single licensee (4)
- Future licensing on the lower 80 channels should be area specific as opposed to site specific. Supports MTA service areas for this purpose but notes that BTA areas could also be employed. Licenses should be issued in 5 channel blocks. (6)

Auction Issues

- One spectrum block should be set aside as an entrepreneurs block. (4)
- Small businesses should be defined using the \$6 million/\$2 million formula employed by the SBA and adopted by the FCC in the IVDS auctions (12)

MTA Licensee Rights and Obligations

- MTA licensees should notify both the FCC and incumbents prior to construction of new facilities in order to ensure proper co-channel interference protection. (6-7)

Incumbent Rights and Obligations

- Voluntary retuning is the most efficient method available to the SMR industry (7)
- Supports the adoption of a protected service area for incumbents that allows the construction of new base stations within 30 kilometers of the originally authorized facility provided that the 40 dBu contour is not extended. (9)

Construction Requirements

- The proposed removal of extended implementation periods should not be applied to licenses granted pursuant to applications filed prior to August 9, 1994. (3)

Other Issues

- Pending licenses processed after the August 9, 1994. freeze must be given the same deference and status of an incumbent licensee. (2)
- If auctions occur before the application backlog is processed, MTA licensees must accept the "bid-for" spectrum subject to the pending applications. (3)

E.F. JOHNSON COMPANY

- **Manufacturer and designer of radio communications and specialty communications products for commercial and public safety use**

Allocation Issues

- Since the FCC will not require mandatory migration, the awarding of MTA licenses will not change the situation as it exists today and will only incur more expense for the public. (5-6)
- If the FCC does proceed with auctions, the commenter supports the FCC's proposal to license four blocks of 2.5 MHz each. This will allow competition between providers and 10 MHz is not required by a single provider to offer service. (6-7)
- Supports continued authorization of local SMR systems on a site-by-site basis. Requiring service on a BTA basis could potentially require operators to construct facilities where they did not anticipate providing service in contradiction of their business plans and will limit the possibility that a co-channel licensee could legitimately reuse those channels to serve an adjacent area (7-8)

Auction Issues

- Auctions are not appropriate for SMR spectrum since by the time the FCC has completed processing pending applications, almost all spectrum will already be licensed. This scheme ignores the maturity of the SMR industry and the existence of wide-area providers. (4)

Incumbent Rights and Obligations

- Opposes mandatory retuning. Unlike the PCS context, relocation of existing users is unnecessary for wide-area service since those services are already being provided in SMR spectrum by existing operators. Mandatory relocation would only make wide-area licensees' provision of service easier and less expensive and not all technologies require such relocation (8-10)
- It is critical that the FCC allow incumbent licensees to relocate their facilities in the event that their current transmitter location becomes unavailable or unattractive. Such licensees should be permitted to

relocate their facilities to the farther of the following distances: 1) ten miles from the site authorized (or applied for) as of the date that the MTA licensee secures an authorization; or 2) to any site which, based upon an appropriate engineering statement, does not extend the incumbent licensee's coverage area. (11)

- The FCC should afford existing local licensees an opportunity, for a six month period, to submit applications of modification, prior to the time the FCC accepts any MTA-based or other wide-area SMR applications. Those applications would be evaluated based upon the co-channel landscape existing as of the time the application freeze went into effect and before the submission of any MTA- based applications. (12)

Treatment of General Category Channels and Intercategory Sharing

- Wide-area and local SMRs should not be regulated in the same manner because they are different services. Spectrum should continue to be available for local SMR service in: the existing Pool channels; the current General Category channels; and the lower 80 SMR channels. Since these services are not necessarily CMRS, none of these channels should be subject to competitive bidding. (13)
- These channels should be for only local SMR use so wide-area providers will not use them to avoid purchasing auctioned spectrum. If wide-area licensees are permitted to reuse their channels throughout an area, this ability should extend only to the upper 200 SMR channels. (13)

Other

- No presumption of CMRS status should apply to licensees authorized for the 80 locally licensed channels. The DOJ has found that SMR service is discrete from other mobile services. There are significant differences between local SMR and wide-area services. (14-15)
- By validly terminating leases and requiring licensee relocation in instances where co-channel use otherwise prevents relocation, tower site owners and managers can force the transfer of incumbents' channels to the MTA licensee which will produce a loss of service to the public from established operators. (5)